SBCivil Writ Petition No.7169/2005

Bhanwari Devi
Vs.
State of Rajasthan & Anr.

Date of Order :: 12th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sanjay Kapoor, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By this petition for writ a direction is sought by the petitioner for the respondents to make the payment of family pension and other death-cum-retiral benefits to her being widow of Late Shri Parasmal Vanigota who died on 24.4.2005.

In brief, facts of the case are that Late Shri Parasmal Vanigota at first instance married to one Smt. Ratni Devi who died on 12.4.1988 without any offspring. Late Shri Parasmal Vanigota married the petitioner after death of Smt. Ratni Devi on 17.9.1988 and as a consequent of their wedlock three children were born. The predicament of the petitioner that after death of Shri Parasmal Vanigota the respondents are not making payment of family pension and other post retiral-cum-death benefits to her as no reference of their marriage is given in the pension file of Late Shri Parasmal Vanigota, who retired from service on 31.7.1997 as Joint Registrar, Cooperative Societies.

It is stated that in all other official documents petitioner is shown as wife of Late Shri Parasmal Vanigota. To substantiate the contention that the petitioner married to Late Shri Parasmal Vanigota certain documents are placed on record, reference of those are given in para 3 of the writ petition. From reading of documents referred in para 3 of the writ petition it is apparent that in various government orders the petitioner is shown as wife of Shri Parasmal Vanigota. It is only the pension payment order that does not bear name of the petitioner as wife of Shri Parasmal Vanigota.

It is contended by counsel for the petitioner that sufficient material is available on record to satisfy that the petitioner is widow of Late Shri Parasmal Vanigota to the extent that the entire Provident Fund was paid to the petitioner by treating her wife of Late Shri Parasmal Vanigota. The name of the petitioner is shown as wife of the petitioner in the certificate of deposit issued by the Assistant Director, State Insurance and Provident Fund Department, Jodhpur. Late Shri Parasmal Vanigota also nominated the petitioner to receive General Provident Fund in case of his death.

In reply to the writ petition the respondents have not denied the fact that in the certificate of deposition the name of the petitioner is shown as wife

of Late Shri Parasmal Vanigota and Late Shri Parasmal Vanigota also nominated the petitioner in event of his death to receive the amount pertaining to General Provident Fund.

It is true that nomination of the petitioner is not made in pension payment order but it does not mean that the petitioner was not wife of Late Shri Parasmal Vanigota. When Late Shri Parasmal Vanigota during his lifetime nominated the petitioner as his wife for withdrawing Provident Fund and also referred her as his wife in the record of State Insurance and General Provident Fund Department, then there is no reason to accept the petitioner as his widow. The respondents could have asked the petitioner to submit an indemnity bond to protect and secure the amount sought to be paid to her as family pension. The respondents instead of considering the problem of the petitioner objectively choose to stick to the technicalities i.e. not just and fair.

Accordingly, this petition for writ is allowed. The respondents are directed to make payment of family pension of the petitioner by treating her wife of Late Shri Parasmal Vanigota. It is open for the respondents to seek an indemnity bond from the petitioner for the amount i.e. required to be paid to her against the family pension. The respondents are directed to release family pension to the petitioner

from the date of death of her husband Late Shri Parasmal Vanigota within a period of three months from today. The petitioner shall be entitled to receive interest @ 6.5% per annum on the arrears accrued due to delayed payment of family pension.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.